

PUBLIC NOTICE

Federal Communications Commission
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DA 03-1126
Released: April 10, 2003

DOMESTIC SECTION 214 APPLICATION FILED FOR ACQUISITION OF ASSETS OF BROADWING COMMUNICATIONS SERVICES, INC. BY C III COMMUNICATIONS OPERATIONS, LLC

STREAMLINED PLEADING CYCLE ESTABLISHED

WC Docket No. 03-94

On March 14, 2003, Broadwing Telecommunications Inc. (Broadwing-TI), Broadwing Communications Services Inc. ("Broadwing-CSI") and C III Communications Operations, LLC ("C III Ops") (together Applicants), filed an application, pursuant to sections 63.03 and 63.04 of the Commission's rules,¹ for consent to the acquisition of assets of Broadwing-TI and Broadwing-CSI by C III Ops.²

Applicants assert that this transaction is entitled to presumptive streamlined treatment pursuant to section 63.03(b)(2)(i). Applicants assert that the transaction would result in the transferee having a market share in the interstate interexchange market off less than 10 percent; the transferee would provide competitive telephone exchange services or exchange access services (if at all) exclusively in geographic areas served by a dominant local exchange carrier that is not a party to the transaction; and neither of the Applicants is dominant with respect to any service.

Broadwing-TI, a Delaware corporation, is a wholly-owned subsidiary of Broadwing-CSI, a Delaware corporation. Broadwing-CSI is a wholly-owned subsidiary of Broadwing Communications Inc., a Delaware corporation, which in turn is a wholly owned subsidiary of Broadwing Inc., an Ohio Corporation. Broadwing-TI and Broadwing-CSI are currently authorized to provide long distance services in all 48 contiguous states.

C III Ops is a Delaware limited liability company that is wholly owned by C III

¹ 47 C.F.R §§ 63.03.63.04; *see* 47 U.S.C. § 214.

² Applicants have also filed transfer of control applications related to international services. **Any** action on this domestic 214 application is without prejudice to Commission action on other related pending applications.

Communications, LLC ("C III"), which is a privately held Delaware limited liability company. Corvis Corporation ("Corvis"), a Delaware corporation, is the majority and controlling owner of C III. C III Ops is in the process of obtaining authorizations to provide long distance services throughout the United States.

On February 22, 2003, the Applicants entered into an Agreement for the Purchase and Sale of Assets ("Agreement") pursuant to which Broadwing-CSI would sell to C III its entire broadband business, which includes interstate and intrastate long distance and private line services. C III, through its wholly-owned subsidiary, C III Ops, would continue to provide services to all of Broadwing-CSI's and Broadwing TI's existing customers under the trade name "Broadwing." Substantially all of the assets of Broadwing-CSI, including all of the assets and customers of Broadwing-TI, will be transferred to C III Ops. In addition, C III Ops would retain all of Broadcasting-CSI's employees.

The Applicants assert that granting this application will serve the public interest, convenience, and necessity by ensuring continuity of service to Broadwing-CSI's and Broadwing-TI's customers. Further, with the enhanced financial resources contributed by Corvis and Cequel III, Applicants claim the company will be in a better position to provide services to customers, thereby promoting competition in the domestic interexchange service markets.

GENERAL INFORMATION

The transfer of assets identified herein has been found, upon initial review, to be acceptable for filing as a streamlined application. The Commission reserves the right to return any transfer of assets application if, upon further examination, it is determined to be defective and not in conformance with the Commission's rules and policies. Interested parties may file comments within **14 days** and reply comments within **21 days** of this notice.³ Unless otherwise notified by the Commission, an applicant is permitted to transfer control of the domestic lines or authorization to operate on the 31st day after the date of this notice.⁴ Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 Fed. Reg. 24121 (1998).

Comments filed through the ECFS can be sent as an electronic file via the Internet to <<http://www.fcc.gov/e-file/ecfs.html>>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters

³ See 47 C.F.R. § 63.03(a).

⁴ Such authorization is conditioned upon receipt of any other necessary approvals from the Commission in connection with the proposed transaction.

should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistrionix, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial Overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW, Washington, D.C. 20554. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

In addition, one copy of each pleading must be sent to each of the following:

- (1) the Commission's duplicating contractor, Qualex International, 445 12th Street, S.W., Room CY-B402, Washington, D.C. 20554; e-mail: qualexint@aol.com; facsimile: (202) 863-2898; phone: (202) 863-2893.
- (2) Tracey Wilson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C437, Washington, D.C. 20554; e-mail: twilson@fcc.gov, and
- (3) Dennis Johnson, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 6-A461, Washington, D.C. 20554; e-mail: dcjohnso@fcc.gov, and
- (4) William Dever, Competition Policy Division, Wireline Competition Bureau, 445 12th Street, S.W., Room 5-C266, Washington, D.C. 20554; e-mail: wdever@fcc.gov; and
- (5) Imani Ellis-Cheek, Telecommunications Division, International Bureau, 445 12th Street, S.W., Room 6-A739, Washington, D.C. 20554; email: ielis@fcc.gov; and
- (6) Nandan Joshi, Office of General Counsel, 445 12th Street, S.W., Room 8-A820, Washington, D.C. 20554; e-mail: nioshi@fcc.gov.

Filings and comments are also available for public inspection **and** copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW, Room CY-A257, Washington, DC, 20554. They may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW, Room CY-B402, Washington, DC, 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail aualexint@aol.com.

For further information, please contact Tracey Wilson, at (202) 418-1394. Dennis Johnson (202) 418-0809, or William Dever, Competition Policy, Wireline Competition Bureau at (202) 418-1578.

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